IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8060 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NANUBHAI C PATEL

Versus

STATE OF GUJARAT

Appearance:

MR NS DESAI for Petitioner

MR PREMAL JOSHI for Respondent No.1

None present for Respondent No.2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/09/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. The petitioner prayed for direction to the respondents to promote him to the post of Section Officer

from June 1989. Further prayer has been made for direction to the respondents to give him seniority and all other consequential benefits with effect from June 1989. Other prayers which are made in this special civil application are consequential to the prayer made and stated above.

#. The petitioner has failed to show that any person junior to him in the category of Schedule Tribe to which he belongs has been given promotion to the post of Section Officer. During the course of arguments, the learned counsel for the petitioner made reference to the case of promotion which has been given to Mr.M.J.Chaudhary on 27.7.90 on the post of Section Officer and as per his case he is junior to the petitioner. So far as this grievance is concerned, it cannot be entertained for the reason that it is not the subject matter of challenge in this special civil application. After filing of this petition and after giving of promotion to Mr.Chaudhary by respondent No.1, the petitioner has also not prayed for amendment of the special civil application and as such on this ground also, this contention made cannot be entertained what to say to accept the same. From the reply to the special civil application, I find that backlog vacancies of Schedule Tribe have already been filled in accordance with the Rules and if we go by further facts, even 14 persons senior to him belonging to Schedule Tribe category in the cadre of Assistant are still waiting for promotion. The petitioner's name in seniority list is at sr.no.1982 and he stands at sr.no.34 in the list of Assistants belonging to Schedule Tribe. Only candidates upto seniority number 1823 of the Schedule Tribe category are given promotion and upto sr.no.23 in the list of Assistants of the Schedule Tribe. None of the legal or fundamental rights of the petitioner are infringed. The petitioner has no case on merits and his claim for promotion as prayed for therein cannot be granted. As a result of aforesaid discussion, this petition fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. No order as to costs.

(S.K.Keshote, J.)

(sunil)